

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DEANDRE SMITH,

Plaintiff,

v.

CAROLYN W. COLVIN, Acting
Commissioner of Social Security

Defendant.

CASE NO. C13-5842 BHS

ORDER ADOPTING REPORT
AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable John L. Weinberg, United States Magistrate Judge (Dkt. 15), and Plaintiff Deandre Smith’s (Smith”) objections to the R&R (Dkt. 16).

On July 25, 2014, Judge Weinberg issued the R&R recommending that the Court uphold the Administrative Law Judge’s (“ALJ”) determination that Smith is not disabled. Dkt. 15. On August 1, 2014, Smith filed objections. Dkt. 16. On August 15, 2014, the Government responded. Dkt. 17.

The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or

1 modify the recommended disposition; receive further evidence; or return the matter to the
2 magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).

3 In this case, Smith argues that Judge Weinberg erred in concluding that the ALJ
4 gave specific and legitimate reasons for rejecting the opinion of Smith's treating
5 physician, Dr. W. Brandt Bebe. Dkt. 16. The Court disagrees. The brevity of Dr. Bebe's
6 opinion as well as the failure to take into account the surgical repair of Smith's knee are
7 specific and legitimate reasons for rejecting a treating physician's opinion. *See* Dkt. 15 at
8 5–9. These reasons are also supported by substantial evidence in the record.

9 Therefore, the Court having considered the R&R, Smith's objections, and the
10 remaining record, does hereby find and order as follows:

- 11 (1) The R&R is **ADOPTED**;
12 (2) The ALJ's decision is **AFFIRMED**; and
13 (3) This action is **DISMISSED**.

14 Dated this 2nd day of September, 2014.

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17 BENJAMIN H. SETTLE
18 United States District Judge
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